



Reprinted
April 8, 2009

ENGROSSED SENATE BILL No. 576

DIGEST OF SB 576 (Updated April 7, 2009 3:32 pm - DI 71)

Citations Affected: IC 28-7.

Synopsis: Pawnbrokers. Provides that the government issued identification used to verify the identity of a seller or pledger must be issued by the United States or a state government. Requires a pawnbroker to return immediately a stolen item to an individual who alleges that the item was stolen from the individual if the individual: (1) presents the pawnbroker with a police report demonstrating that the item has been stolen; (2) presents the pawnbroker with a receipt that specifically identifies the stolen item by serial number; and (3) agrees to prosecute and appear as a witness against the person who pledged or sold the stolen item. Provides that a pawnbroker who returns a stolen item to its owner has a cause of action against the person who sold or pledged the item. Makes conforming amendments.

Effective: July 1, 2009.

Taylor, Head, Young R
(HOUSE SPONSORS — PORTER, PRYOR, SULLIVAN)

January 20, 2009, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

February 12, 2009, amended, reported favorably — Do Pass.

February 17, 2009, read second time, amended, ordered engrossed.

February 18, 2009, engrossed.

February 23, 2009, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

March 5, 2009, read first time and referred to Committee on Judiciary.

April 2, 2009, reported — Do Pass.

April 7, 2009, read second time, amended, ordered engrossed.

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April 8, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 576

A BILL FOR AN ACT to amend the Indiana Code concerning
criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 28-7-5-16, AS AMENDED BY P.L.57-2006,
2 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 16. (a) The licensee shall keep and use in his
4 business such books, accounts, and records as will enable the
5 department to determine whether the licensee is complying with this
6 chapter and with the rules adopted by the department under this
7 chapter. Every licensee shall preserve such books, accounts, and
8 records, including cards used in the card system for at least two (2)
9 years after making the final entry on any loan recorded therein. The
10 books and records of the licensee shall be kept so that the pawnbroking
11 business transacted in Indiana may be readily separated and
12 distinguished from the business of the licensee transacted elsewhere
13 and from any other business in which the licensee may be engaged. To
14 determine whether the licensee is complying with this chapter and with
15 rules adopted by the department under this chapter, the department may
16 examine the books, accounts, and records required to be kept by the
17 licensee under this subsection. If the department examines the books,

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accounts, and records of the licensee under this subsection, the licensee shall pay all reasonably incurred costs of the examination in accordance with the fee schedule adopted under IC 28-11-3-5.

(b) If a pawnbroker, in the conduct of the business, purchases an article from a seller, the purchase shall be evidenced by a bill of sale properly signed by the seller. All bills of sale must be in duplicate and must recite the following separate items:

(1) Date of bill of sale.

(2) Amount of consideration.

(3) Name of pawnbroker.

(4) Description of each article sold. However, if multiple articles of a similar nature that do not contain an identification or serial number (such as precious metals, gemstones, musical recordings, video recordings, books, or hand tools) are delivered together in one (1) transaction, the description of the articles is adequate if the description contains the quantity of the articles delivered and a physical description of the type of articles delivered, including any other unique identifying marks, numbers, names, letters, or special features.

(5) Signature of seller.

(6) Address of seller.

(7) Date of birth of the seller.

(8) The type of **United States or state** government issued identification used to verify the identity of the seller, together with the name of the governmental agency that issued the identification, and the identification number present on the **United States or state** government issued identification.

(c) If a pawnbroker, in the conduct of the business, purchases an article from a seller on the condition of selling the property back at a stipulated price, the transaction shall be evidenced by a bill of sale properly signed by the seller. All such bills of sale must be in duplicate and recite the information in subsection (b) and must also contain the following information:

(1) Date of resale.

(2) Amount of resale.

(d) The original copy of the bill of sale shall be retained by the pawnbroker. The second copy shall be delivered to the seller by the pawnbroker at the time of sale. The heading on all bill of sale forms must be in boldface type.

(e) Each licensee shall maintain a record of control indicating the number of accounts and dollar value of all outstanding pawnbroking receivables. Each licensee shall maintain a separate record of

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1 transactions subject to subsection (c).

2 SECTION 2. IC 28-7-5-19 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 19. (a) Every
4 pawnbroker shall keep a record in ink that must include the following:

5 (1) The name, date of birth, and address of the pledger, or where
6 the pledge is made by a person acting as agent for a disclosed
7 principal, the names, dates of birth, and addresses of principal and
8 agent.

9 (2) The date of the transaction.

10 (3) The amount of the loan.

11 (4) The article or articles pledged and a description of the articles.
12 However, if multiple articles of a similar nature that do not
13 contain an identification or serial number (such as precious
14 metals, gemstones, musical recordings, video recordings, books,
15 or hand tools) are delivered together in one (1) transaction, the
16 description of the articles is adequate if the description contains
17 the quantity of the articles delivered and a physical description of
18 the type of articles delivered, including any other unique
19 identifying marks, numbers, names, letters, or special features.

20 (5) The serial number of the loan.

21 (6) The date on which each loan was paid in full, renewed, or
22 unredeemed.

23 (7) An itemization of principal, interest, and additional fees
24 collected.

25 (8) An itemization of fees authorized under IC 28-7-5-25.

26 (9) The total of all charges collected.

27 (10) The type of **United States or state** government issued
28 identification used to verify the identity of the seller, together with
29 the name of the governmental agency that issued the
30 identification, and the identification number present on the
31 **United States or state** government issued identification.

32 (b) Other methods of recording data, such as electronic or
33 computerized methods, may be used provided written printouts or hard
34 copies of the required data are readily available. The record keeping
35 system of a licensee shall be made available in Indiana for
36 examination. The department shall determine the sufficiency of the
37 records and whether the licensee has made the required information
38 reasonably available.

39 SECTION 3. IC 28-7-5-21, AS AMENDED BY P.L.217-2007,
40 SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
41 JULY 1, 2009]: Sec. 21. (a) The pawnbroker shall, at the time of
42 making a loan, deliver to the pledger or the pledger's agent a

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memorandum or ticket on which shall be legibly written or printed the following information:

- (1) The name of the pledger.
- (2) The name of the pawnbroker and the place where the pledge is made.
- (3) The article or articles pledged, and a description of the articles. However, if multiple articles of a similar nature that do not contain an identification or serial number (such as precious metals, gemstones, musical recordings, video recordings, books, or hand tools) are delivered together in one (1) transaction, the description of the articles is adequate if the description contains the quantity of the articles delivered and a physical description of the type of articles delivered, including any other unique identifying marks, numbers, names, letters, or special features.
- (4) The amount of the loan.
- (5) The date of the transaction.
- (6) The serial number of the loan.
- (7) The sum of the interest as provided in section 28 of this chapter and the charge as provided in section 28.5 of this chapter stated as an annual percentage rate computed in accordance with regulations issued by the Federal Reserve Board under the Federal Consumer Credit Protection Act (as defined in IC 24-4.5-1-302).
- (8) The amount of interest.
- (9) The amount of charge and principal due at maturity.
- (10) A copy of sections 28, 28.5, and 30 of this chapter.
- (11) The date of birth of the pledger.
- (12) The type of **United States or state** government issued identification used to verify the identity of the pledger, together with the name of the governmental agency that issued the identification, and the identification number present on the **United States or state** government issued identification.
- (13) The last date on which the pledged article or articles may be redeemed before the article or articles may be sold if the loan is not redeemed, renewed, or extended. The language setting forth the information described in this subdivision must be in 14 point boldface type.
- (14) A statement that:
 - (A) notifies the pledger that the pawnbroking transaction is regulated by the department; and
 - (B) includes a toll free telephone number for the department.
- (b) A pawnbroker may insert in such ticket any other terms and

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conditions not inconsistent with this chapter. However, nothing appearing on a pawn ticket shall relieve the pawnbroker of the obligations to exercise reasonable care in the safekeeping of articles pledged with the pawnbroker.

SECTION 4. IC 28-7-5-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 34. A pawnbroker shall not be required to deliver a pledge except:

(1) upon surrender of the ticket, unless the ticket ~~be~~ is impounded or its negotiation enjoined by a court; **or**

(2) in accordance with section 40 of this chapter.

SECTION 5. IC 28-7-5-40 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 40. (a) A pawnbroker immediately shall return an item to an individual who alleges that the item was stolen from the individual if the individual:**

(1) presents the pawnbroker with a police report demonstrating that the item has been stolen;

(2) presents the pawnbroker with a receipt that specifically identifies the stolen item by serial number; and

(3) agrees to prosecute and appear as a witness against the person who sold or pledged the stolen item.

(b) If a pawnbroker returns a stolen item to an individual under subsection (a), the pawnbroker may bring a cause of action in any court with jurisdiction against the person who sold or pledged the stolen item. If the pawnbroker prevails, the pawnbroker is entitled to reasonable attorney's fees in addition to damages, including the amount paid for the stolen item and any interest that has accrued.

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 576, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 14, delete "presents the pawnbroker with:" and insert ":",

Page 2, line 15, after "(1)" insert "**presents the pawnbroker with**".

Page 2, line 16, delete "and".

Page 2, line 17, after "(2)" insert "**presents the pawnbroker with**".

Page 2, line 17, after "that" insert "**specifically**".

Page 2, line 17, delete "." and insert "**by serial number; and**

(3) agrees to prosecute and appear as a witness against the person who sold or pledged the stolen item.".

and when so amended that said bill do pass.

(Reference is to SB 576 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 7, Nays 4.

 SENATE MOTION

Madam President: I move that Senate Bill 576 be amended to read as follows:

Page 1, delete lines 7 through 17.

Page 2, delete lines 1 through 9.

Page 2, delete lines 21 through 24.

Page 2, line 25, delete "(c)" and insert "**(b)**".

Re-number all SECTIONS consecutively.

(Reference is to SB 576 as printed February 13, 2009.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 576, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

LAWSON L, Chair

Committee Vote: yeas 7, nays 0.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 576 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 28-7-5-16, AS AMENDED BY P.L.57-2006, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) The licensee shall keep and use in his business such books, accounts, and records as will enable the department to determine whether the licensee is complying with this chapter and with the rules adopted by the department under this chapter. Every licensee shall preserve such books, accounts, and records, including cards used in the card system for at least two (2) years after making the final entry on any loan recorded therein. The books and records of the licensee shall be kept so that the pawnbroking business transacted in Indiana may be readily separated and distinguished from the business of the licensee transacted elsewhere and from any other business in which the licensee may be engaged. To determine whether the licensee is complying with this chapter and with rules adopted by the department under this chapter, the department may examine the books, accounts, and records required to be kept by the licensee under this subsection. If the department examines the books, accounts, and records of the licensee under this subsection, the licensee shall pay all reasonably incurred costs of the examination in accordance with the fee schedule adopted under IC 28-11-3-5.

(b) If a pawnbroker, in the conduct of the business, purchases an article from a seller, the purchase shall be evidenced by a bill of sale properly signed by the seller. All bills of sale must be in duplicate and must recite the following separate items:

(1) Date of bill of sale.

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- (2) Amount of consideration.
- (3) Name of pawnbroker.
- (4) Description of each article sold. However, if multiple articles of a similar nature that do not contain an identification or serial number (such as precious metals, gemstones, musical recordings, video recordings, books, or hand tools) are delivered together in one (1) transaction, the description of the articles is adequate if the description contains the quantity of the articles delivered and a physical description of the type of articles delivered, including any other unique identifying marks, numbers, names, letters, or special features.
- (5) Signature of seller.
- (6) Address of seller.
- (7) Date of birth of the seller.
- (8) The type of **United States or state** government issued identification used to verify the identity of the seller, together with the name of the governmental agency that issued the identification, and the identification number present on the **United States or state** government issued identification.

(c) If a pawnbroker, in the conduct of the business, purchases an article from a seller on the condition of selling the property back at a stipulated price, the transaction shall be evidenced by a bill of sale properly signed by the seller. All such bills of sale must be in duplicate and recite the information in subsection (b) and must also contain the following information:

- (1) Date of resale.
- (2) Amount of resale.

(d) The original copy of the bill of sale shall be retained by the pawnbroker. The second copy shall be delivered to the seller by the pawnbroker at the time of sale. The heading on all bill of sale forms must be in boldface type.

(e) Each licensee shall maintain a record of control indicating the number of accounts and dollar value of all outstanding pawnbroking receivables. Each licensee shall maintain a separate record of transactions subject to subsection (c).

SECTION 2. IC 28-7-5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 19. (a) Every pawnbroker shall keep a record in ink that must include the following:

- (1) The name, date of birth, and address of the pledger, or where the pledge is made by a person acting as agent for a disclosed principal, the names, dates of birth, and addresses of principal and agent.

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- (2) The date of the transaction.
- (3) The amount of the loan.
- (4) The article or articles pledged and a description of the articles. However, if multiple articles of a similar nature that do not contain an identification or serial number (such as precious metals, gemstones, musical recordings, video recordings, books, or hand tools) are delivered together in one (1) transaction, the description of the articles is adequate if the description contains the quantity of the articles delivered and a physical description of the type of articles delivered, including any other unique identifying marks, numbers, names, letters, or special features.
- (5) The serial number of the loan.
- (6) The date on which each loan was paid in full, renewed, or unredeemed.
- (7) An itemization of principal, interest, and additional fees collected.
- (8) An itemization of fees authorized under IC 28-7-5-25.
- (9) The total of all charges collected.
- (10) The type of **United States or state** government issued identification used to verify the identity of the seller, together with the name of the governmental agency that issued the identification, and the identification number present on the **United States or state** government issued identification.

(b) Other methods of recording data, such as electronic or computerized methods, may be used provided written printouts or hard copies of the required data are readily available. The record keeping system of a licensee shall be made available in Indiana for examination. The department shall determine the sufficiency of the records and whether the licensee has made the required information reasonably available.

SECTION 3. IC 28-7-5-21, AS AMENDED BY P.L.217-2007, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. (a) The pawnbroker shall, at the time of making a loan, deliver to the pledger or the pledger's agent a memorandum or ticket on which shall be legibly written or printed the following information:

- (1) The name of the pledger.
- (2) The name of the pawnbroker and the place where the pledge is made.
- (3) The article or articles pledged, and a description of the articles. However, if multiple articles of a similar nature that do not contain an identification or serial number (such as precious

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metals, gemstones, musical recordings, video recordings, books, or hand tools) are delivered together in one (1) transaction, the description of the articles is adequate if the description contains the quantity of the articles delivered and a physical description of the type of articles delivered, including any other unique identifying marks, numbers, names, letters, or special features.

(4) The amount of the loan.

(5) The date of the transaction.

(6) The serial number of the loan.

(7) The sum of the interest as provided in section 28 of this chapter and the charge as provided in section 28.5 of this chapter stated as an annual percentage rate computed in accordance with regulations issued by the Federal Reserve Board under the Federal Consumer Credit Protection Act (as defined in IC 24-4.5-1-302).

(8) The amount of interest.

(9) The amount of charge and principal due at maturity.

(10) A copy of sections 28, 28.5, and 30 of this chapter.

(11) The date of birth of the pledger.

(12) The type of **United States or state** government issued identification used to verify the identity of the pledger, together with the name of the governmental agency that issued the identification, and the identification number present on the **United States or state** government issued identification.

(13) The last date on which the pledged article or articles may be redeemed before the article or articles may be sold if the loan is not redeemed, renewed, or extended. The language setting forth the information described in this subdivision must be in 14 point boldface type.

(14) A statement that:

(A) notifies the pledger that the pawnbroking transaction is regulated by the department; and

(B) includes a toll free telephone number for the department.

(b) A pawnbroker may insert in such ticket any other terms and conditions not inconsistent with this chapter. However, nothing appearing on a pawn ticket shall relieve the pawnbroker of the obligations to exercise reasonable care in the safekeeping of articles pledged with the pawnbroker."

Renumber all SECTIONS consecutively.

(Reference is to ESB 576 as printed April 3, 2009.)

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